

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3729

By: Phillips

COMMITTEE SUBSTITUTE

An Act relating to telecommunications; amending 17 O.S. 2011, Section 139.102, as last amended by Section 3, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2019, Section 139.102), which relates to the Oklahoma Telecommunications Act of 1997; modifying definition; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2011, Section 139.102, as last amended by Section 3, Chapter 270, O.S.L. 2016 (17 O.S. Supp. 2019, Section 139.102), is amended to read as follows:

Section 139.102 As used in the Oklahoma Telecommunications Act of 1997:

1. "Access line" means the facilities provided and maintained by a telecommunications service provider which permit access to or from the public switched network or its functional equivalent regardless of the technology or medium used;

1 2. "Administrative process" means an administrative application
2 process which allows eligible local exchange telecommunications
3 providers and eligible providers to request funding and an
4 administrative submission process that allows Oklahoma Universal
5 Service Fund Beneficiaries to submit a preapproval request directly
6 with the Administrator. Both of the administrative processes shall
7 not require an order from the Commission to determine eligibility
8 for, allocate or disburse funds unless a request for reconsideration
9 is filed;

10 3. "Administrator" means the Director of the Public Utility
11 Division of the Corporation Commission;

12 4. "Commission" means the Corporation Commission of this state;

13 5. "Competitive local exchange carrier" or "CLEC" means, with
14 respect to an area or exchange, a telecommunications service
15 provider that is certificated by the Commission to provide local
16 exchange services in that area or exchange within the state after
17 July 1, 1995;

18 6. "Competitively neutral" means not advantaging or favoring
19 one person or technology over another;

20 7. "Consortium" means, as used in Section 6 of this act, two or
21 more Oklahoma Universal Service Fund Beneficiaries that choose to
22 request support under the Federal Universal Service Support
23 Mechanism or successor program or programs as a single entity;

1 8. "Contributing providers" means providers, including but not
2 limited to providers of intrastate telecommunications, providers of
3 intrastate telecommunications for a fee on a non-common-carrier
4 basis, providers of wireless telephone service and providers of
5 interconnected Voice over Internet Protocol (VoIP). Contributing
6 providers shall contribute to the Oklahoma Universal Service Fund
7 and Oklahoma Lifeline Fund. VoIP providers shall be assessed only
8 as provided for in the decision of the Federal Communications
9 Commission, FCC 10-185, released November 5, 2010, or such other
10 assessment methodology that is not inconsistent with federal law.
11 Entities exempt from contributing to the Federal Universal Service
12 Support Mechanisms are also exempt from contributing to the Oklahoma
13 Universal Service Fund and Oklahoma Lifeline Fund consistent with 47
14 C.F.R., Section 54.706(d). The term "contributing providers" may be
15 modified to conform to the definition of contributors as defined by
16 the FCC if adopted by the Commission, after notice and hearing;

17 9. "Eligible healthcare entity" means a not-for-profit
18 hospital, county health department, city-county health department,
19 not-for-profit mental health and substance abuse facility or
20 Federally Qualified Health Center in Oklahoma. Eligible healthcare
21 entity shall also include telemedicine services provided by the
22 Oklahoma Department of Corrections at facilities identified in
23 Section 509 of Title 57 of the Oklahoma Statutes;

1 10. "Eligible local exchange telecommunications service
2 provider" means ILEC, CLEC and commercial radio mobile service
3 provider as those terms are used in the Oklahoma Telecommunications
4 Act of 1997;

5 11. "Eligible provider" means, for purposes of Special
6 Universal Services, providers of telecommunications services which
7 hold a certificate of convenience and necessity and OneNet;

8 12. "End User Common Line Charge" means the flat-rate monthly
9 interstate access charge required by the Federal Communications
10 Commission that contributes to the cost of local service;

11 13. "Enhanced service" means a service that is delivered over
12 communications transmission facilities and that uses computer
13 processing applications to:

- 14 a. change the content, format, code, or protocol of
- 15 transmitted information,
- 16 b. provide the customer new or restructured information,
- 17 or
- 18 c. involve end-user interaction with information stored
- 19 in a computer;

20 14. "Exchange" means a geographic area established by an
21 incumbent local exchange telecommunications provider as filed with
22 or approved by the Commission for the administration of local
23 telecommunications service in a specified area which usually
24 embraces a city, town, or village and its environs and which may

1 consist of one or more central offices together with associated
2 plant used in furnishing telecommunications service in that area;

3 15. "Facilities" means all the plant and equipment of a
4 telecommunications service provider, including all tangible and
5 intangible real and personal property without limitation, and any
6 and all means and instrumentalities in any manner owned, operated,
7 leased, licensed, used, controlled, furnished, or supplied for, by,
8 or in connection with the business of any telecommunications service
9 provider;

10 16. "Federally Qualified Health Center" or "(FQHC)" means an
11 entity which:

- 12 a. is receiving a grant under Section 330 of the Public
13 Health Service (PHS) Act, 42 U.S.C., Section 254b, or
14 is receiving funding from a grant under a contract
15 with the recipient of such a grant and meets the
16 requirements to receive a grant under Section 330 of
17 the PHS Act,
- 18 b. based on the recommendation of the Health Resources
19 and Services Administration within the Public Health
20 Service, is determined by the Secretary of the
21 Department of Health and Human Services to meet the
22 requirements for receiving a grant as described in
23 subparagraph a of this paragraph,
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1 c. was treated by the Secretary of the Department of
2 Health and Human Services, for purposes of part B of
3 Section 330 of the PHS Act, as a comprehensive
4 federally funded health center as of January 1, 1990,
5 or

6 d. is an outpatient health program or facility operated
7 by a tribe or tribal organization under the Indian
8 Self-Determination Act, 25 U.S.C., Section 450f et
9 seq., or by an urban Indian organization receiving
10 funds under Title V of the Indian Health Care
11 Improvement Act, 25 U.S.C., Section 1651 et seq.;

12 17. "Federal Universal Service Support Mechanism" is the
13 support program established by the Telecommunications Act of 1996,
14 47 U.S.C., Section 254(h). The program includes support for
15 schools, libraries and healthcare providers;

16 18. "Funding year" means, for purposes of administering the
17 Oklahoma Universal Service Fund, the period of July 1 through June
18 30;

19 19. "High speed Internet access service" or "broadband service"
20 means, as used in Section 139.110 of this title, those services and
21 underlying facilities that provide upstream, from customer to
22 provider, or downstream, from provider to customer, transmission to
23 or from the Internet in excess of ~~one hundred fifty (150) kilobits~~
24 ~~per second~~ or a constant download speed of twenty-five megabits per

1 second (25 Mbps) and in excess of or a constant upload speed of
2 three megabits per second (3 Mbps), regardless of the technology or
3 medium used including, but not limited to, wireless, copper wire,
4 fiber optic cable, or coaxial cable, to provide such service;

5 20. "Hospital" means a healthcare entity that has been granted
6 a license as a hospital by the Oklahoma Department of Health for
7 that particular location;

8 21. "Incumbent local exchange telecommunications service
9 provider" or "ILEC" means, with respect to an area or exchanges, any
10 telecommunications service provider furnishing local exchange
11 service in such area or exchanges within this state on July 1, 1995,
12 pursuant to a certificate of convenience and necessity or
13 grandfathered authority;

14 22. "Installation charge" means any charge for a nonrecurring
15 service charged by an eligible provider necessary to initiate
16 Special Universal Services. Installation charges may not exceed the
17 cost which would be charged for installation, if the cost were not
18 being paid for by the OUSF;

19 23. "Interexchange telecommunications carrier" or "IXC" means
20 any person, firm, partnership, corporation or other entity, except
21 an incumbent local exchange telecommunications service provider,
22 engaged in furnishing regulated interexchange telecommunications
23 services under the jurisdiction of the Commission;

1 24. "Internet" means the international research-oriented
2 network comprised of business, government, academic and other
3 networks;

4 25. "Local exchange telecommunications service" means a
5 regulated switched or dedicated telecommunications service which
6 originates and terminates within an exchange or an exchange service
7 territory. Local exchange telecommunications service may be
8 terminated by a telecommunications service provider other than the
9 telecommunications service provider on whose network the call
10 originated. The local exchange service territory defined in the
11 originating provider's tariff shall determine whether the call is
12 local exchange service;

13 26. "Local exchange telecommunications service provider" means
14 a company holding a certificate of convenience and necessity from
15 the Commission to provide local exchange telecommunications service;

16 27. "Not-for-profit hospital" means:

- 17 a. a hospital located in this state which has been
18 licensed as a hospital at that location pursuant to
19 Section 1-701 et seq. of Title 63 of the Oklahoma
20 Statutes for the diagnosis, treatment, or care of
21 patients in order to obtain medical care, surgical
22 care or obstetrical care and which is established as
23 exempt from taxation pursuant to the provisions of the
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Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
or

- b. a hospital located in this state which is licensed as a hospital at that location pursuant to Section 1-701 et seq. of Title 63 of the Oklahoma Statutes and is owned by a municipality, county, the state or a public trust for the diagnosis, treatment, or care of patients in order to obtain medical care, surgical care, or obstetrical care;

28. "Not-for-profit mental health and substance abuse facility" means a facility, not for the sole purpose of administration, which is operated by the Department of Mental Health and Substance Abuse Services or a facility certified by the Department of Mental Health and Substance Abuse Services as a Community Mental Health Care Center, a Community-Based Structured Crisis Center or a Community Comprehensive Addiction Recovery Center;

29. "Oklahoma High Cost Fund" means the fund established by the Commission in Cause Nos. PUD 950000117 and 950000119;

30. "Oklahoma Lifeline Fund" or "(OLF)" means the fund established and required to be implemented by the Commission pursuant to Section 139.105 of this title;

31. "Oklahoma Universal Service Fund" or "(OUSF)" means the fund established and required to be implemented by the Commission pursuant to Section 139.106 of this title;

1 32. "Oklahoma Universal Service Fund Beneficiary" means an
2 entity eligible to receive Special Universal Services support as
3 provided for in subsection A of Section 6 of this act;

4 33. "Prediscount amount" means the total cost of Special
5 Universal Services, selected pursuant to the procedures set out in
6 subparagraph 5 of subsection B of Section 6 of this act, before
7 charges are reduced by federal or state funding support. The
8 prediscount amount shall not include fees or taxes;

9 34. "Person" means any individual, partnership, association,
10 corporation, governmental entity, public or private organization of
11 any character, or any other entity;

12 35. "Primary universal service" means an access line and dial
13 tone provided to the premises of residential or business customers
14 which provides access to other lines for the transmission of two-way
15 switched or dedicated communication in the local calling area
16 without additional, usage-sensitive charges, including:

- 17 a. a primary directory listing,
- 18 b. dual-tone multifrequency signaling,
- 19 c. access to operator services,
- 20 d. access to directory assistance services,
- 21 e. access to telecommunications relay services for the
22 deaf or hard-of-hearing,
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1 f. access to nine-one-one service where provided by a
2 local governmental authority or multijurisdictional
3 authority, and

4 g. access to interexchange long distance services;

5 36. "Public library" means a library or library system that is
6 freely open to all persons under identical conditions and which is
7 supported in whole or in part by public funds. Public library shall
8 not include libraries operated as part of any university, college,
9 school museum, the Oklahoma Historical Society or county law
10 libraries;

11 37. "Public school" means all free schools supported by public
12 taxation, and shall include grades prekindergarten through twelve
13 and technology center schools that provide vocational and technical
14 instruction for high school students who attend the technology
15 center school on a tuition-free basis. Public school shall not
16 include private schools, home schools or virtual schools;

17 38. "Regulated telecommunications service" means the offering
18 of telecommunications for a fee directly to the public where the
19 rates for such service are regulated by the Commission. Regulated
20 telecommunications service does not include the provision of
21 nontelecommunications services, including, but not limited to, the
22 printing, distribution, or sale of advertising in telephone
23 directories, maintenance of inside wire, customer premises
24 equipment, and billing and collection service, nor does it include

1 the provision of wireless telephone service, enhanced service, and
2 other unregulated services, including services not under the
3 jurisdiction of the Commission, and services determined by the
4 Commission to be competitive;

5 39. "Special Universal Services" means the telecommunications
6 services supported by the OUSF which are furnished to public
7 schools, public libraries and eligible health care entities as
8 provided for in Section 6 of this act;

9 40. "Tariff" means all or any part of the body of rates, tolls,
10 charges, classifications, and terms and conditions of service
11 relating to regulated services offered, the conditions under which
12 offered, and the charges therefor, which have been filed with the
13 Commission and have become effective;

14 41. "Telecommunications" means the transmission, between or
15 among points specified by the user, of information of the user's
16 choosing, without change in the form or content of the information
17 as sent and received;

18 42. "Telecommunications carrier" means a person that provides
19 telecommunications service in this state;

20 43. "Telecommunications service" means the offering of
21 telecommunications for a fee;

22 44. "Telemedicine service" means the practice of health care
23 delivery, diagnosis, consultation and treatment, including but not
24 limited to the transfer of medical data or exchange of medical

1 education information by means of audio, video or data
2 communications. Telemedicine service shall not mean a consultation
3 provided by telephone or facsimile machine;

4 45. "Universal service area" has the same meaning as the term
5 "service area" as defined in 47 U.S.C., Section 214(e)(5);

6 46. "WAN" means a wide-area network that exists over a large-
7 scale geographical area. A WAN connects different smaller networks,
8 including local area networks and metro area networks, which ensures
9 that computers and users in one location can communicate with
10 computers and users in other locations;

11 47. "Wire center" means a geographic area normally served by a
12 central office; and

13 48. "Wireless telephone service" means radio communication
14 service carried on between mobile stations or receivers and land
15 stations and by mobile stations communicating among themselves and
16 which permits a user generally to receive a call that originates or
17 terminates on the public switched network or its functional
18 equivalent regardless of the radio frequencies used.

19 SECTION 2. This act shall become effective November 1, 2020.
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